

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

STACEY WASHINGTON	:	DOCKET NO. _____
	:	
VERSUS	:	JUDGE _____
	:	
WAL-MART STORES, INC. AND	:	
WAL-MART LOUISIANA, LLC	:	MAGISTRATE JUDGE _____

VERIFIED NOTICE OF REMOVAL AND JURY DEMAND

NOW INTO COURT, through undersigned counsel, come defendants, WAL-MART LOUISIANA, L.L.C. (erroneously identified by plaintiff as Wal-Mart Stores, Inc.) and WAL-MART STORES, INC. (collectively “defendants”), in the above entitled cause, and appearing solely for the purpose of presenting this Notice of Removal of the above entitled cause to this Honorable Court under the provisions of 28 U.S.C. §1441, *et seq.*, and reserving all rights, respectfully shows as follows:

1.

This suit was filed by plaintiff in the First Judicial District Court Caddo Parish, Louisiana on the 22nd day of April, 2016.

2.

Plaintiff did not name Wal-Mart Louisiana, LLC as a defendant, but, as that entity is the proper defendant, an answer was filed on its behalf in the state court proceeding on June 6, 2016.

3.

Defendants allege that plaintiff, STACEY WASHINGTON is a resident, citizen, and domiciliary of the State of Louisiana.

4.

This action is of a civil nature at law. At the time plaintiff's petition was filed, defendant, Wal-Mart Louisiana, LLC was, and is now, a Delaware limited liability company. The sole member of Wal-Mart Louisiana, LLC is Wal-Mart Stores East, LP, a Delaware limited partnership. The general partner of Wal-Mart Stores East, LP is WSE Management, LLC, a Delaware limited liability company. The limited partner of Wal-Mart Stores East, LP is WSE Investment, LLC, a Delaware limited liability company. The sole member of both WSE Management, LLC and WSE Investment LLC is Wal-Mart Stores East, Inc. a Delaware corporation with its principal place of business located in the State of Arkansas.

5.

Wal-Mart Stores, Inc., the original named defendant, is a Delaware corporation with its principal place of business in the State of Arkansas.

6.

In the petition, plaintiff alleges that she was injured when she tripped and fell at a Wal-Mart store located on Mansfield Road in Shreveport, Caddo Parish, Louisiana.

7.

In the petition, plaintiff alleges that she sustained “severe” injuries to her knee, shoulder, wrist, neck, back and “other parts of her body” as a result of the fall and seeks damages for those injuries, including past and future economic damages.

8.

Plaintiff did not make any allegations in the petition regarding the amount of damages, or the type of medical treatment received for the alleged injuries, or provide any allegations explaining the alleged severity of her injuries.

9.

Nothing on the face of plaintiff’s petition in state court suggested the value of her claim exceeded \$75,000.00.

10.

Plaintiff has not yet responded to Defendants’ Interrogatories and Requests for Production served on plaintiff on June 6, 2016.

11.

On June 10, 2016, Defendants deposed plaintiff who testified that she sought treatment for her shoulder, back and neck pain from a chiropractor. (A copy of the deposition testimony is attached as Exhibit A at 64:17-65:17).

12.

During the deposition, plaintiff testified that she hurt her right foot during the fall and that she needed surgery to repair the injury. (*Id.* at 44:7-45:23).

13.

During the deposition, plaintiff also testified that, after the fall, she had undergone gastric sleeve surgery to help her lose weight in an attempt to relieve the pain in her back and legs allegedly caused by the fall. (*Id.* at 47:3-47:15).

14.

Medical records gathered by defendants to date show that plaintiff's past medical expenses, that she claims were incurred due to the fall at Walmart, are approximately \$52,833.97. (A copy of the allegedly related medical expenses received from medical providers are attached hereto as Exhibit B).

15.

On September 13, 2016, counsel for Wal-Mart received a surgical cost estimate (a copy of which is attached at Exhibit C) for plaintiff's future foot surgery from Specialists Hospital Shreveport and Orthopedic Specialists of Louisiana in the amount of \$34,570.00, not including anesthesia services, bringing the total claimed damages over the \$75,000.00 threshold for this Court's jurisdiction.

16.

During the time this matter was pending in the First Judicial District Court, defendants had no basis to believe that the value of plaintiff's claim met the jurisdictional threshold of this Court.

17.

The receipt of plaintiff's cost estimate for future medical expenses to repair a foot injury on September 13, 2016, constitutes defendants' first notice that this case became removable and defendants file this Notice of Removal within 30 days thereof.

18.

Pursuant to 28 USC §1446(b), this Notice of Removal is timely because plaintiff's discovery responses constitute an "other paper from which it was first ascertained that the case is one which is or has become removable," and the Notice of Removal is filed within one year after the commencement of the action.

19.

This Court has jurisdiction of this cause of action under 28 USC §1332.

20.

The proper court for removal is the United States District Court for the Western District of Louisiana, Shreveport Division.

21.

Defendants file herewith copies of the entire record in the district court, which consists of the following:

- (1) Citation and Petition (*see* Exhibit D);
- (2) Service of Process (*see* Exhibit E);
- (3) Answer (*see* Exhibit F); and
- (4) Notice of Records Deposition (La. Dept. of Children and Family Services) with Subpoena Duces Tecum and service return information (*see* Exhibit G).

22.

Defendants further show unto the Court that immediately upon the filing of this Notice of Removal, a copy of same shall be served upon all adverse parties and a copy filed with the Clerk of the First Judicial District Court, Caddo Parish, Louisiana, all in accordance with 28 USC §1446(d).

Shreveport, Louisiana, this 6th day of October, 2016.

BLANCHARD, WALKER, O'QUIN & ROBERTS
(*A Professional Law Corporation*)

By: /s/ Marianne Cosse Boston
Paul M. Adkins, Bar #14043
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ATTORNEYS FOR DEFENDANTS,
WAL-MART STORES, INC. AND
WAL-MART LOUISIANA, LLC

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

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WAL-MART STORES, INC. AND	:	
WAL-MART LOUISIANA, LLC	:	MAGISTRATE JUDGE _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Notice of Removal has this
date been served on the following by hand delivery of same to:

Honorable Gary A. Loftin
Caddo Parish Clerk of Court
500 Texas Street – Room 103
Shreveport, Louisiana 71101

and served on the following by placing same in the United States Mail, properly address, with
sufficient postage affixed:

Mr. J. Allen Cooper
Mr. Zachary A. Shadinger
The Law Office of Allen Cooper, L.L.C.
551 Kings Highway
Shreveport, Louisiana 71104

Shreveport, Louisiana, this 6th day of October, 2016.

/s/ Marianne Cosse Boston
Marianne Cosse Boston